


The Official Website of the Department of Revenue (DOR)



Department of Revenue

Mass Gov. Home | State Agencies | State Online Services

[DOR Home](#) | [For Individuals and Families](#) | [For Businesses](#) | [For Local Officials](#) | [For Tax Professionals](#)

Home > Businesses > Help & Resources > Legal Library > Letter Rulings > Letter Rulings - By Year(s) > (1985-1989) Rulings >

SEARCH

Select an area to search

Search

Letter Ruling 85-35: Drop Shipments

February 27, 1985

_____ (“Manufacturer”) is a New York based commercial printer registered as a Massachusetts vendor. It sells business forms to Company X, a dealer/distributor located outside the Commonwealth. Company X is not registered to do business in Massachusetts, but resells the forms to Massachusetts retailers or consumers by soliciting their orders by mail or telephone. The Manufacturer ships the forms directly to the Massachusetts consumers or retailers. You inquire as to the sales or use tax consequences of the sale of the business forms from the Manufacturer to Company X.

Massachusetts General Laws Chapter 64H, Section 2 imposes an excise on a vendor’s gross receipts from sales at retail of tangible personal property in Massachusetts. Under Section 1(13) of Chapter 64H, “sale at retail” does not include sales for resale in the regular course of business. However, section 1(13) does provide:

The delivery in the commonwealth of tangible personal property by an owner or former owner thereof, or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or to a person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in the commonwealth, is a retail sale in the commonwealth by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Chapter 64I, Section 2 imposes an excise on the storage, use or other consumption in Massachusetts of tangible personal property purchased from any vendor for storage, use or other consumption in Massachusetts; “storage, use or other consumption” does not include the sale of tangible personal property in the regular course of business or the retention of tangible personal property for sale in the regular course of business (G.L. c. 64I, § 1(4) and (5)). It is presumed that tangible personal property sold by any person for delivery in Massachusetts is sold for storage, use or other consumption in Massachusetts.

There is also a presumption that all gross receipts of a vendor are from sales subject to tax, except in two instances. The first is when a seller takes a resale certificate in good faith from a purchaser who is a registered Massachusetts vendor (G.L. c. 64H, § 8). The second exception is when a vendor accepts in good faith from a distributor a notarized statement on the distributor’s letterhead that it is not engaged in business in Massachusetts within the meaning of General Laws Chapter 64H, Section 1(5), and that it is purchasing the property solely for resale to registered Massachusetts vendors who will resell it in the regular course of business. The statement must include the name and vendor registration number of the Massachusetts vendor to whom the distributor will resell the property.

Therefore, the sale of business forms from the Manufacturer to Company X will be subject to the sales tax based on Company X’s selling price, except when the Manufacturer accepts in good faith a notarized statement on Company X’s letterhead stating that the Company is not engaged in business in Massachusetts within the meaning of G.L. c. 64H, § 1(5), and that it is purchasing the property solely for resale to a registered Massachusetts vendor who will resell it in the regular course of business.

When the Manufacturer sells the business forms to Company X for sale by the Company at retail to

Massachusetts consumers, and the Manufacturer ships the forms directly to the consumers, the Manufacturer must pay the sales or use tax, based on Company X's selling price, on its sale of the business forms.

Very truly yours,

/s/Ira A. Jackson

Ira A. Jackson

Commissioner of Revenue

IAJ:JA:loc

LR 85-35